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before defends the force & Injury when &c. And Saith that the af. Daniel Dulany & Henrietta his Wife their Action af. to have & maintain ought not because he Saith That the af. William Ennalls & Henry Ennalls in the Writing Obligatory & Condition af. mentioned did pay unto the af. Philemon Lloyd in his lifetime the af. Sum of thirty thousand Pounds of Tobacco according to the Condition af. Twisten thousand Pounds of Tobacco on the tenth Day of March that next ensued the Date of said Bond ten thousand Pounds of Tobacco on the tenth Day of March seventeen hundred and twenty six and ten thousand Pounds of Tobacco the tenth Day of March seventeen hundred and twenty seven together with the Cost of Suit in the sd. Condition mentioned in Discharge and Satisfaction of the Writing Obligatory afs. to wit at Dorchester County af. and this he is ready to verify Wherefore the said Joseph prays Judgment if the said Daniel and his Wife their Action af. to have or maintain ought &c.

And the said Daniel Dulany and Henrietta Maria his Wife say that they by any Thing above alledged from having and maintaining their Action af. ought not to be precluded Because they say that the said William Ennalls & Henry Ennalls did not pay the sumal Quantities of Tobacco & the Cost of Suit mentioned in the Condition of the same Writing as the said Joseph hath above alledged and this the said Daniel Dulany and Henrietta Maria his Wife pray may be enquired of by the Country.

And the Defendt. also

Whereupon for trying the Issue af. Command is given to the Sheriff of Ann Arundel County that he cause to come before the Justices of the Provincial Court at Annapolis the third Tuesday of May next or before the Justices appointed to take the Assizes in his County if they shall before that Time to wit on Monday the seventh Day of April next to the County Court House in the said County come twelve good and lawful Men of his Bailywick by whom &c. who neither &c. to recognize &c. because as well &c.

Afterwards the Process continued between the Parties af. on the Plea af. by the Jury being put thereon in Respite here until the third Tuesday of May next Unless the Justices of his Lordship the Lord Propty. to take the Assizes in the said County assigned on Monday the seventh Day of April next to the County Court House in the said County should come

At which said third Tuesday of May to wit, the 20th Day of the same Month anno Domini 1740 Comes again into his Lordship's Provincial Court here as well the said Dan.l Dulany Esq.r Mr. or Adm.r &c. as af. by Dan.l Jennings their Att.y &c. as the said Joseph Ennalls &c. as af. by James Calder his Att.y &c. But the Sheriff hath not sent his Writ, Thereupon the Process af. between the Parties af. on the Plea af. is further continued untill next Court.

At which said next Court to wit, the 21st Day of October Anno Domini 1740 Comes again as well the said Daniel Dulany Mr. or Adm.r &c. as af. by their Att.y &c. as the said Joseph Ennalls &c. as af. by his Att.y &c. And thereupon the said Parties have unanimously Agreed to stand to the Arbitrament & award of Coll. Levin Gale of Somerset County Arbitrator Indifferently chosen by the said Parties according to the form of the Statute in that Case made & Provided, and Whereas the Justices here have by consent of the Parties af. Rule & ordered that Judgment of this Court shall be rendered upon such Arbitrament or award as the said Arbitrator shall make in the Premises & returned under his hand & Seal to the Justices of the said Provincial Court to be next holden at Annapolis, which said Judgment is to be final between the said Parties by the Consent of the Parties af. according to the form of the Statute &c. It's Therefore ordered by

(the)

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the Court here by consent af. that the said Levin Gale hear the Allegations of the Parties af. at such reasonable time as they shall think fit before the next Provincial Court in the Presence of the said Parties if they having Convenient notice think fit to be present and to make his return thereof to the next Provincial Court According to the Rule af. And thereupon further Day is given to the said Parties Plff.s & Def.t in the Plea af. at their Request untill next Court

At which said next Court to wit, the 14th Day of April Anno Dom. 1741 Comes again as well the said Daniel Dulany Esq.r Mr. or Adm.r &c. as af. by their Att.y &c. as the said Joseph Ennalls Esq.r &c. as af. by his Att.y &c. but the said Arbitrator makes no return of his Arbitration in the Action af. pursuant to the Rule af. Thereupon by the Court & consent of the Parties Plff.s & Def.t the Rule af. is ordered to be renewed to the said Coll. Levin Gale Empowering him as af. to make return of his said Arbitration next Court. And thereupon further Day is given to the said Parties Plff.s & Def.t in the Plea af. at their Request until next Court

At which said next Court to wit the 13th Day of Octo.r Anno Dom. 1741 Comes again the said Parties Plff.s & Def.t by their Att.y &c. But the said Arbitrator makes no return of his Arbitration in the Action af. pursuant to the Rule af. Thereupon by the Court & Consent of the Parties af. the Rule af. is ordered to be renewed to the said Coll. Levin Gale Empowering him as af. to make return of his said Arbitration next Court. And thereupon further Day is given to the said Parties Plff.s & Def.t in the Plea af. at their request untill next Court

At which said next Court, to wit, the 13th Day of April Anno Dom. 1742 Comes again as well the said Daniel Dulany Esq.r Mr. or Adm.r &c. as af. by their Attorney af. as the said Joseph Ennalls Esq.r as af. by his Att.y &c. af. And thereupon the said Coll. Levin Gale Arbitrator as af. pursuant to the Rule af. makes his report to the Court here as follows viz.

In the Provincial Court

Lloyds Adm.rs af. & Ennalls's &c. } To the Justices of the Provincial Court I hereby certify that I have Examined into the dispute in this action and find the Ballance due on the Bond whereon this action is brought is fifteen hundred & twenty one pounds of Tobacco. Levin Gale

With which foregoing return was returned the following Account viz.

17	Coll. Wm. Ennalls To Philemon Lloyd Esq.r Dr.				Pr. Contra	Cr.
Mar. 10	To your Bond now payable		5000	1726	paid Wm. Eccleston as by receipt	5100
1735/6	To Ditto		5000		Sundry small Articles	477
1736/7	To Ditto		5000	1727	Paid Tho. Woolford	3694
1737/8	To Ditto		5000		Small Articles	300
	To 506 c. rec. of Maj. Ennalls		1825	1728	Seven hhds. Tob. in Somerset as appears by Mr. Lloyd's letter	3514
1741	Interest		415		Small Articles	350
	To Secretary's fees		4805	1729	Paid Charles Dickenson as by receipt appears	2709
			22045	1731	By paid Shadrack Siddeman as by receipt	5500
	To Interest		355			21644
			22400		By Ballance due	756
						22400
	Maj. Henry Ennalls to Ditto				Pr. Contra	Cr.
1728	To a Ballance then due said to be paid the Negro		360		Ballance Due	765
	To Interest thereon		405			
			765			

(Thereupon)